

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



January 5, 1998

ALL-COUNTY INFORMATION NOTICE NO. I-02-98

TO: COUNTY WELFARE DIRECTORS
COUNTY AUDIT CONTROLLERS
COUNTY FISCAL OFFICERS
COUNTY CHIEF PROBATION OFFICERS

REASON FOR THIS TRANSMITTAL

- ☒ State Law Change
- ☒ Federal Law or Regulation Change
- ☐ Court Order of Settlement Agreement
- ☐ Clarification Requested by One or More Counties
- ☒ Initiated by CDSS

SUBJECT: THE COMPREHENSIVE YOUTH SERVICES ACT

The purpose of this letter is to provide counties with information regarding recently enacted State legislation which provides Temporary Assistance for Needy Families (TANF) Block Grant funding to county probation departments for services provided to children in the juvenile justice system under the Comprehensive Youth Services Act (CYSA), (Chapter 270, Statutes of 1997).

Background

Under previous federal law, county probation departments (CPD) claimed Emergency Assistance (EA) funds under Title IV-A of the Social Security Act, Part A (commencing with Section 601) of Subchapter 4 of Chapter 7 of Title 42 of the United States Code. The EA Program was an optional open-ended entitlement program which allowed states to obtain 50 percent federal financial participation to reimburse the costs of short-term assistance and services provided to eligible families with children for the purpose of alleviating emergency situations. California used the EA Program to cover the costs of some services for delinquent children (the EA-Probation component) and children at risk of abuse, neglect, abandonment or exploitation (the EA-Child Welfare Services component). Under the Probation component, funds were used to provide assistance and/or services to children whose behavior had resulted in their removal from the home and a judicial determination that the child must remain in out-of-home care for more than 72 hours. It included juvenile assessment centers, camps and ranches, after care and foster care placements. Effective January 1, 1996, the funding for these services was terminated by the federal Department of Health and Human Services (DHHS).

The Personal Responsibility & Work Opportunity Reconciliation Act (PRWORA), federal Public Law 104-193, enacted August 22, 1996, repealed Title IV-A thereby eliminating EA as a separate, open-ended federal entitlement program. The federal funds previously used for EA were subsumed into the TANF Block Grant under Title I. Under the statute, funds from the grant may be used; "(1) in any manner that is reasonably calculated to accomplish the purpose of this part . . . or (2) in any manner that the State was authorized to use amounts received under part A or F, as such parts were in effect on September 30, 1995." Since the EA Probation component was funding services to children in the juvenile justice system on September 30, 1995, California has the discretion to use TANF funds for those probation services as provided for under the former Title IV-A EA State Plan.

CYSA Overview

The CYSA allocates \$140.9 million in TANF block grant funds to CPDs for specified services and designates the California Department of Social Services (CDSS) as the state agency responsible for administering the funds. The intent of the CYSA is to provide a continuum of family focused case-specific services, in a community-based setting, that addresses the full spectrum of child and family needs, including services provided in county-operated residential care facilities. The CYSA allows counties the option of utilizing these funds to provide services as follows:

Category 1

Funds may be used to provide services to children who are habitual truants, runaways, at risk of being wards of the court under Section 601 or 602, or are under juvenile court supervision or supervision of the probation department. Funds may be used to serve parents or other family members of these children if serving them will promote increased self-sufficiency, personal responsibility, and family stability for the child. Services shall be provided pursuant to a family service plan. When a family is served by multiple public agencies or in need of services from multiple public agencies, the family service plan must be developed through an interdisciplinary approach that includes representatives from agencies that provide services to the family or that may be required to implement the service plan. (See Attachment A for the services which may be funded.)

and/or

Category 2

Funds may be used to provide emergency services to children whose behavior has resulted in their removal from the home and a judicial determination that the child must remain in out-of-home care for more than 72 hours. Services may include payment for shelter care in juvenile assessment centers, residential group care in camps and ranches, or foster care in a licensed foster care facility, except where provided by Title IV-E of the Social Security Act,

Part E (commencing with Section 670) of Subchapter 4 of Chapter 7 of Title 42 of the United States Code. To be eligible for funding under this category, all eligibility criteria specified in the Title IV-A State Plan for EA, in effect on September 30, 1995, must be met.

It should be noted that one of these eligibility requirements was the verification that the family's income did not exceed 200 percent of the California median family income. For the period beginning July 1, 1997, through June 30, 1998, 200 percent of the California median family income equates to \$100,000.

The CYSA also gives counties the responsibility to create, approve and administer a plan for the expenditure of funds. Furthermore, any audit exception, deferral, or disallowance resulting from an audit of funds expended under the CYSA will be shared by each county based on the percentage of the total costs claimed by the county during the quarter being audited. To the extent that an audit exception, deferral, or disallowance can be taken against an individual county and is not extrapolated to other counties, it must be borne solely by that county.

Program Oversight

The 17 State positions previously associated with the oversight of the EA Program were eliminated through the State Budget Act and, as a result, the Emergency Assistance Program Bureau has been dismantled. While CDSS retains the authority for administering the funds according to the legislation, counties must utilize their own discretion in the operation and use of CYSA funds. As previously stated, the CYSA specifies the types of services which may be provided as well as the populations which may be served. Additionally, the CYSA gives the counties the responsibility for any and all audit exceptions, deferrals or disallowances resulting from an audit of funds under the CYSA. Counties should adhere to federal DHHS regulations and policy announcements when interpreting TANF requirements under the CYSA. The CDSS will immediately forward to counties all new DHHS regulations and policy announcements relevant to TANF as soon as they become available. Counties should contact their designated Federal Funding Committee (FCC) Chairperson of the Chief Probation Officers of California (CPOC) regarding program issues relating to CYSA and/or TANF requirements.

County Probation and Welfare Department Functions

Under the prior EA Program, County Welfare Departments (CWDs) carried out the eligibility determination function under a Memorandum of Understanding (MOU) agreement with CPDs. Questions have arisen as to whether this function can be performed by CPDs under the CYSA. Existing State statute assigns the responsibility for eligibility determinations to CWDs. Furthermore, this function cannot be contracted out or performed by any other public agency. As such, CWDs will continue to have responsibility for the eligibility functions associated with services provided under the CYSA.

The CPDs are still required to maintain a current MOU with the CWDs. Because the CWDs are the local agencies designated by CDSS to receive TANF funds, MPP Division 25-821.313, 29-400.21, 29-405, 45-202.612 and 45-203.512 require that a written agreement (MOU) be in place between the CPDs and the CWDs and that a new agreement be executed in the event of changes in federal or State law.

Assistance to Children in Emergency (ACE)

One of the requirements under the prior Title IV-A EA Program was the tracking of EA cases and limiting EA services to once in a twelve-month period. The ACE database tracking system was established in order to meet these requirements. While there does not appear to be a specific mandate under the CYSA which requires the use of the ACE system, counties will be required to ensure that the tracking and time limitation criteria are met for services provided under Category 2. As such, counties are advised that in the absence of an alternative system for meeting these requirements the ACE system should continue to be utilized. Counties should contact their designated FFC Chairperson of the CPOC regarding program issues relating to the ACE system.

Services to Aliens

Under previous federal law, CPDs could provide EA services to undocumented aliens. Title IV of PRWORA sets out new rules for alien eligibility by classifying aliens as either "qualified" or "non-qualified" for the receipt of public benefits. The following are "qualified" aliens: aliens lawfully admitted for permanent residence; aliens granted asylum; aliens admitted as refugees; aliens paroled into the United States for at least a year; aliens whose deportation is being withheld; and, aliens granted conditional entry. It is CDSS's opinion, based on the language of DHHS policy announcement issued through the Federal Register on August 26, 1997 (see Attachment B), and further clarified through the DHHS Information Memorandum; ACYF-CB-IM-97-07 (see Attachment C), that "qualified aliens" who enter the United States on or after August 22, 1996, (date of enactment of the PRWORA) are not eligible to receive public benefits in the form of TANF funded CYSA services for a period of five years from their date of entry. It is CDSS's understanding that additional guidance regarding the issue of "non-qualified" aliens is forthcoming from DHHS. However, absent complete, clear and definitive DHHS regulations or policy announcements, counties must exercise their own discretion when interpreting how alien requirements under PRWORA effect TANF funded CYSA services.

TANF Data Collection

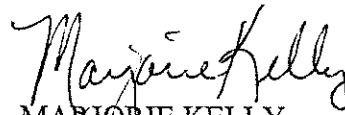
It is unclear whether federal reporting requirements will apply to this program. Although CYSA activities are funded with TANF funds, services may not necessarily be provided to TANF/CalWORKS recipients. Final regulations regarding data collection requirements are not

anticipated until next year. Counties will be notified in a subsequent letter of the data collection requirements for this program when further clarification is received from the federal government.

Fiscal Issues

The Fiscal Policy Bureau (FPB) has issued County Fiscal Letter No. 97/98-12, dated September 2, 1997, which provides counties with claiming instructions and county allocations under the CYSA. The FPB is available to answer any claiming related questions regarding the CYSA. You may call your FPB county analyst or call the FPB main number at (916) 657-3440 and you will be directed to the appropriate analyst.

Sincerely,

A handwritten signature in cursive script that reads "Marjorie Kelly".

MARJORIE KELLY

Deputy Director

Children and Family Services Division

Attachments

BILL NUMBER: AB 1542

CHAPTERED 08/11/97

CHAPTER 270

FILED WITH SECRETARY OF STATE AUGUST 11, 1997

APPROVED BY GOVERNOR AUGUST 11, 1997

PASSED THE SENATE AUGUST 4, 1997

PASSED THE ASSEMBLY AUGUST 4, 1997

AMENDED IN SENATE AUGUST 4, 1997

AMENDED IN SENATE JULY 22, 1997

AMENDED IN ASSEMBLY MAY 8, 1997

INTRODUCED BY Assembly Members Ducheny and Ashburn and Senators Thompson and Maddy

CHAPTER 3.2. COMPREHENSIVE YOUTH SERVICES ACT

18220. The Legislature finds and declares all of the following:

(a) The enactment of federal welfare reform, Public Law 104-193, has provided the state with an unprecedented opportunity to recast the state's welfare system, and in particular, to simplify the standards and procedures for determining assistance to the state's children and their families.

(b) Under previous federal law, California's county probation departments claimed emergency assistance funds under Title IV-A of the Social Security Act, Part A (commencing with Section 601) of Subchapter 4 of Chapter 7 of Title 42 of the United States Code, to help defray the cost of operating county juvenile probation activities. That claiming increased the allocation to California under the federal Temporary Assistance for Needy Families block grant by 140.9 million dollars.

(c) In the past, county probation departments focused attention on serving youthful offenders under the jurisdiction of the court. However, there is broad recognition that preventive approaches would be a more cost-effective approach to reducing juvenile crime, promoting family based services, and keeping families intact. This chapter will permit probation departments to expand preventive services to target populations that include youth who are habitual truants, runaways, or at risk of being adjudicated wards of the court under Section 601 or 602.

(d) When a minor has been identified as at risk or when he or she remains in the community under the jurisdiction of the juvenile court, the needs of the entire family must determine the services provided on behalf of the minor.

(e) Because of their troubled family situations, juvenile probationers are at great risk of becoming welfare recipients as young adults.

(f) Whether or not they are prepared for the responsibility, probation youth tend to become parents at an early age. A recent survey identified over 16,000 probation youth who were already parents.

(g) If youth on probation fail to develop adequate self-sufficiency skills, many of them and their children will require public assistance in the coming years.

(h) A survey of probation youth reveals that (1) most are more than three years below their grade level in reading and math skills,

(2) 40 percent are not attending school, (3) 60 to 80 percent are abusing drugs or alcohol or both, (4) 60 percent are victims of abuse and neglect, and (5) 50 percent are from single parent homes.

(i) The intent of the Legislature in enacting this chapter is to provide a continuum of family focused case-specific services, in a community-based setting, that addresses the full spectrum of child and family needs, including services provided in county-operated residential care facilities.

(j) Proper probation services will provide the structure, support, and supervision needed to keep probation youth from further crime and to help them develop essential skills to avoid dependence on public assistance.

(k) In addition to serving at-risk youth or youthful offenders, county probation agencies should also serve parents when doing so will promote increased self-sufficiency, personal responsibility, and family stability for the youth.

18221. (a) The State Department of Social Services is hereby designated as the state agency responsible for administering funds appropriated for the purposes of this

chapter pursuant to this section.

(b) Subject to the availability of funding in the annual Budget Act, the department shall allocate among counties in proportion to the following schedule:

Jurisdiction	Amount
Alameda	\$ 5,615,845
Alpine	0
Amador	94,452
Butte	463,554
Calaveras	94,110
Colusa	51,612
Contra Costa	4,418,859
Del Norte	182,637
El Dorado	239,710
Fresno	2,340,762
Glenn	72,780
Humboldt	208,678
Imperial	536,872
Inyo	215,271
Kern	3,698,303
Kings.....	461,824
Lake	314,736
Lassen	72,850
Los Angeles	49,946,525
Madera	372,479
Marin	597,819
Mariposa	3,979
Mendocino	167,701
Merced	509,314
Modoc	31,257
Mono	1,042
Monterey	912,822
Napa	484,121
Nevada	143,386
Orange	13,611,232

Placer	279,576
Plumas	23,265
Riverside	4,310,788
Sacramento	3,350,278
San Benito	360,418
San Bernardino	5,189,475
San Diego	8,988,739
San Francisco	3,107,495
San Joaquin	1,224,857
San Luis Obispo	820,758
San Mateo	2,702,688
Santa Barbara	2,621,585
Santa Clara	9,799,213
Santa Cruz	1,012,615
Shasta	579,199
Sierra	0
Siskiyou	96,777
Solano	1,433,509
Sonoma	2,200,569
Stanislaus	719,052
Sutter	200,013
Tehama	232,026
Trinity	58,023
Tulare	2,381,471
Tuolumne	88,584
Ventura	2,805,490
Yolo	296,851
Yuba	152,154

(c) Counties shall use no more than 15 percent of their annual allocation for administrative costs.

(d) Any audit exception, deferral, or disallowance resulting from an audit under this chapter shall be shared by each county based on the percentage of the total costs claimed by the county during the quarter being audited. To the extent the audit exception, deferral, or disallowance can be taken against an individual county and is not extrapolated to other counties, it shall be borne solely by that county.

18222. (a) Subject to the availability of federal funds for the purposes described in this section, funds provided pursuant to subdivision (b) of Section 18221 may be used to serve children who are habitual truants, runaways, at risk of being wards of the court under Section 601 or 602, or are under juvenile court supervision or supervision of the probation department. Funds may be used to serve parents or other family members of these children if serving them will promote increased self-sufficiency, personal responsibility, and family stability for the child. Services shall be provided pursuant to a family service plan. When a family is served by multiple public agencies or in need of services from multiple public agencies, the family service plan shall be developed through an interdisciplinary approach that shall include representatives from agencies that provide services to the family or that may be required to implement the service plan.

(b) Services authorized under this section include all of the following:

(1) Educational advocacy and attendance monitoring.

- (2) Mental health assessment and counseling.
- (3) Home detention.
- (4) Social responsibility training.
- (5) Family mentoring.
- (6) Parent peer support.
- (7) Life skills counseling.
- (8) Direct provision of, and referral to, prevocational and vocational training.
- (9) Family crisis intervention.
- (10) Individual, family, and group counseling.
- (11) Parenting skills development.
- (12) Drug and alcohol education.
- (13) Respite care.
- (14) Counseling, monitoring, and treatment.
- (15) Gang intervention.
- (16) Sex and health education.
- (17) Anger management, violence prevention, and conflict resolution.
- (18) After care services as juveniles transition back into the community and reintegrate into their families.
- (19) Information and referral regarding the availability of community services.
- (20) Case management.
- (21) Therapeutic day treatment.
- (22) Transportation related to any of the services described in this subdivision.
- (23) Emergency and temporary shelter.

18223. (a) Subject to the availability of federal funds for the purposes described in this section, funds provided pursuant to subdivision (b) of Section 18221 may be used to provide emergency services to children whose behavior results in the child's removal from the home and a judicial determination that the child must remain in out-of-home care for more than 72 hours.

(b) Services authorized under this section include payment for shelter care in juvenile assessment centers, residential group care in camps and ranches, or foster care in a licensed foster care facility, except where provided by Title IV-E of the Social Security Act, Part E (commencing with Section 670) of Subchapter 4 of Chapter 7 of Title 42 of the United States Code.

(c) To be eligible for funding pursuant to this section, all eligibility criteria specified in the Title IV-A state plan for emergency assistance in effect on September 30, 1995, shall be met.

18224. All services provided under this chapter, whether provided in the home, residential facilities, or other settings, shall be based on the following principles:

- (a) Services shall be oriented toward the principles of personal responsibility and self-reliance.
- (b) Services shall use available community resources to the extent they are available, to serve the needs of the populations served under this chapter.
- (c) Individualized case plan development shall consider family concerns, priorities, and resources and shall include services designed to help families develop problem solving skills to apply independently in new situations.
- (d) Services shall be based on comprehensive strength-based family assessments, shall be family focused, and shall address identified

immediate needs as well as underlying risk factors contributing to problems that are more pervasive and recurrent in nature.

(e) Services offered shall be cost-effective, using established community services in tandem with federal, state, and locally funded services.

18225. (a) (1) The board of supervisors of any county that receives funds pursuant to this chapter shall approve the expenditure plan for funds received pursuant to subdivision (b) of Section 18221.

(2) (A) The board of supervisors of any county that receives funds under this chapter shall establish a local planning council to meet, and to advise the chief probation officer in the development of the proposed expenditure plan for the funds provided under this chapter.

(B) With the exception of local planning councils serving pursuant to subdivision (b), any council established pursuant to this subdivision shall include representatives from all of the following:

(i) County departments, including health, mental health, probation, child protective services, and education.

(ii) Local school districts.

(iii) City and county law enforcement agencies.

(iv) Community-based organizations that serve at-risk youth, including shelter providers, organizations addressing issues of pregnancy and parenting, organizations addressing issues of substance use and abuse, and culturally conscious organizations reflecting the ethnic and cultural composition of the community.

(v) One or more youths who are at risk or have been adjudicated under Section 601 or 602.

(vi) Parents or family members of at-risk youth.

(b) The county board of supervisors may provide that a planning council established pursuant to Section 749.22 shall serve as the local planning council required by subdivision (a).

18226. This chapter shall remain operative only until October 31, 2003.

[Federal Register: August 26, 1997 (Volume 62, Number 165)]
[Notices]
[Page 45256-45258]
From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr26au97-90]

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA); Interpretation of "Federal Means-Tested Public Benefit"

AGENCY: Office of the Secretary, HHS.

ACTION: Notice with comment period.

SUMMARY: This notice with comment period interprets the term "Federal means-tested public benefit[s]" as used in Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Pub. L. 104-193, to include only mandatory spending programs of the Federal Government in which eligibility for the programs' benefits, or the amount of such benefits, or both, are determined on the basis of income or resources of the eligibility unit seeking the benefit. At HHS, the benefit programs that fall within this definition (and are not explicitly excepted from the definition by Section 403(c)) are Medicaid and Temporary Assistance for Needy Families (TANF).

DATES: Effective Date: This notice is effective on August 26, 1997.

COMMENT PERIOD: Written comments will be considered if we receive them at the appropriate address, as provided in the addresses section below, no later than 5 p.m. on October 27, 1997.

ADDRESSES: Mail comments (1 original and 3 copies) to the following address: Division of Economic Support for Families, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, Room 404E, 200 Independence Ave., SW, Washington, DC 20201, Attention: David Nielsen.

FOR FURTHER INFORMATION CONTACT:

David Nielsen, (202) 690-7148.

Copies of comments may be inspected at the above address. Inquiries regarding how a particular program is affected by this notice should be submitted to DHHS program staff responsible for managing the program at either the appropriate Regional Office, or Headquarters in Washington, DC. The above contact should be used only to submit general comments regarding the policy interpretation contained in this notice.

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SUPPLEMENTARY INFORMATION:

I. Background

Title IV of PRWORA contains several references to the term "Federal means-tested public benefit[s]." The most significant of these references are found in Sections 403 and 421. Section 403 denies "Federal means-tested public benefit[s]" to aliens who entered the United States with a qualified alien status "on or after the date of the enactment of this Act" for 5 years beginning on the date of the aliens' entry into the United States. Section 421 provides that new sponsor-to-alien deeming rules apply to "any Federal means-tested public benefits program." In the absence of a statutory definition of "Federal means-tested public benefit", HHS is interpreting the term to include only benefits provided by means-tested, mandatory spending programs.

Early versions of PRWORA contained a definition of "Federal means-tested public benefit" that could have encompassed benefits provided by both discretionary spending programs and mandatory spending programs. (These early versions provided that, with certain exceptions, "the term 'Federal means-tested public benefit' meant a public benefit (including cash, medical, housing, and food assistance and social services) of the Federal Government in which the eligibility of an individual, household, or family eligibility unit for benefits, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit." 142 Cong. Rec. S8481 (daily ed. July 22, 1996).) During debate over the bill in the Senate, a member of the Senate raised a point of order pursuant to the Byrd Rule, and the definition was struck. The Senate Parliamentarian upheld the Byrd Rule objection, the Senate did not appeal the ruling, and PRWORA was ultimately enacted without defining the term.

PRWORA was subject to Section 313 of the Congressional Budget Act of 1974, also known as the "Byrd Rule," because it was enacted as a budget reconciliation bill. Under the Byrd Rule, a Senator may raise a point of order to strike or prevent the incorporation of "extraneous" material. A provision in a reconciliation bill will be considered "extraneous" and subject to a point of order if, among other things, "it produces changes in outlays or revenues which are merely incidental to the non-budgetary components of the provision." 2 U.S.C. Sec. 644(b)(1)(D). The legislative history of PRWORA indicates that the Senate understood the significance of the Byrd Rule objection in terms of limiting the scope of the definition of "Federal means-tested public benefit" to mandatory spending programs, while leaving discretionary programs unaffected. See 142 Cong. Rec. at S9403 (daily ed. August 1, 1996) (statement of Senator Chafee); 142 Cong. Rec. at S9400 (statements of Senators Graham, Kennedy and Exon). Therefore, to the extent the definition of "Federal means-tested public benefit" included benefits provided by discretionary spending programs, it was subject to a Byrd Rule objection.

II. Interpretation

In light of the statutory language and legislative history, HHS is defining "Federal means-tested public benefit" to apply only to benefits provided by Federal means-tested, mandatory spending programs,

and not to any discretionary spending programs or to any mandatory spending programs that are not means-tested. For purposes of this Federal Register notice, a program is considered "means-tested" if eligibility for the program's benefits, or the amount of such benefits, or both, are determined on the basis of income or resources of the eligibility unit seeking the benefit.

The following HHS programs are means-tested, mandatory spending programs: Medicaid, Temporary Assistance for Needy Families (TANF), Foster Care, Adoption Assistance, and part of the Child Care Development Block Grant. Foster Care and Adoption Assistance, however, are explicitly exempted from the term "Federal means-tested public benefit" under Section 403(c)(2)(F). The Child Care Development Block Grant program is unique in that it is funded from both mandatory and discretionary parts of the budget. Since the funds are operationally commingled at the state and local level, and since the mixed nature of the funding results in budgetary effects more closely akin to those of a discretionary spending program, we are treating Child Care as a discretionary spending program for purposes of interpreting "Federal means-tested public benefit." Therefore, the HHS programs that constitute "Federal means-tested public benefits" under PRWORA are Medicaid and TANF.

This interpretation pertains only to HHS and its benefit programs. Other Executive Branch agencies whose programs may be subject to PRWORA will make independent determinations about the scope of the term.

III. Comment Period and Effective Date

Although HHS is soliciting public comment on this interpretation, we believe that it is necessary to apply this interpretation to HHS programs immediately, prior to receipt and consideration of any comments.

PRWORA was enacted in August, 1996, and since that time HHS has received numerous inquiries regarding the application of the term "Federal means-tested public benefit." Additional delay will cause unnecessary or incorrect administrative actions by agencies or entities that administer our programs. We also believe it is possible that due to confusion about the application of the term "Federal means-tested public benefit" people may have been denied critical benefits and services who, according to the interpretation in this notice, are otherwise eligible. Without prompt issuance of this interpretation, state and local governments and other public and private benefit providers will remain confused over how to implement the requirements of Title IV of PRWORA. Finally, some states have indicated their intention to define the term "Federal means-tested public benefit" on their own if Federal guidance is not forthcoming soon. Independent interpretations by states will only compound the confusion on this issue since there is no certainty that each state will arrive at the same definition of the term. In sum, although we are providing a 60-day period for public comment, as indicated at the beginning of this notice, this interpretation is effective immediately.

IV. Economic Impact

The Department has analyzed the costs and benefits of this notice to determine whether it has a substantial economic effect on the

economy as a whole, on states, or on small entities. The purpose of this analysis was to identify less burdensome or more beneficial alternatives and thereby to influence the requirements imposed by the notice.

PRWORA creates major economic effects, a large portion of which results from changes in the law relating to immigrants' eligibility for Federal benefits. We estimated the 1997-2002 Federal budget savings to Medicaid due to the immigrant restrictions would be \$5.1 billion. There were no Federal budget savings estimated for TANF because, as a block grant, its spending levels were fixed regardless of caseload size. These Medicaid budget effects are essentially due to the eligibility restrictions contained in the statute.

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This notice provides HHS' interpretation as to whether any other HHS programs are subject to the PRWORA requirements regarding immigrants' eligibility for "Federal means-tested" benefits, and thereby serves to prevent confusion among administering agencies, grantee agencies, benefit providers, and the public. This interpretation has no effect on overall spending levels for any discretionary-funded HHS programs. Nor does this interpretation create burdens or mandates on states or small entities.

As a result of the PRWORA eligibility restrictions, this notice is classified as economically "significant" under Executive Order 12866's criterion of an economic effect of more than \$100 million. For the same reason, it is classified as a "major rule" for purposes of Congressional review under 5 U.S.C. Sec. 801 et. seq., Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121). And, for the same reasons noted in section III above, this notice is effective immediately under the exception procedures of Sec. 808 of that statute because we have determined for good cause that delayed implementation is impractical and contrary to the public interest.

Dated: August 21, 1997.

Donna E. Shalala,
Secretary.

[FR Doc. 97-22683 Filed 8-25-97; 8:45 am]
BILLING CODE 4150-04-M

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration on Children, Youth and Families	
Log No. ACYF-CB-IM-97-07.	Issuance Date: 8-29-97.
Originating Office: Children's Bureau .	
Key Words: Immigrants, Eligibility, Foster Care, Adoption, Means Test, Aliens, Public Benefits	

INFORMATION MEMORANDUM

TO: State Agencies Administering Titles IV-B and IV-E of the Social Security Act

SUBJECT: Guidance on the Definition of "Federal Means-Tested Public Benefit"

PURPOSE: The purpose of this Information Memorandum (IM) is to provide information to the States regarding the Department of Health and Human Services' definition of the term "Federal means-tested public benefits" as used in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

LEGAL AND RELATED REFERENCES: Section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; Federal Register, Vol.62, No.165, pp.45256-8.

INFORMATION: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), P.L. 104-193, restricts the access of certain categories of immigrants to specified Federal benefits, including some benefits administered by the Department of Health and Human Services (HHS). This IM provides guidance on certain immigrant eligibility provisions of the PRWORA.

Section 403 of PRWORA bars most qualified aliens who enter the U.S. on or after enactment (August 22, 1996) from eligibility for "Federal means-tested public benefits" for five years beginning on the date the individual entered the United States with a qualified alien status. As defined in a Federal Register notice (attached) dated August 26, 1997, and effective immediately, HHS is interpreting "Federal means-tested public benefits" to include only those benefits provided under Federal means-tested, mandatory spending programs. The following HHS programs meet this definition: Medicaid, and the Temporary Assistance for Needy Families (TANF) Block Grant - the successor to the Aid to Families for Dependent Children (AFDC) program. Therefore, no other HHS programs are "Federal means-tested public benefits" for purposes of PRWORA, and all qualified aliens, regardless of when they entered the U.S., continue to be eligible to receive assistance and services under the Child Welfare Services Program and the Family Preservation and Support Program (title IV-B, subparts 1 and 2 of

the Social Security Act) and the Foster Care, Adoption Assistance, and Independent Living Programs (title IV-E of the Social Security Act) if they meet other program requirements.

Finally, guidance on other immigration-related issues is still under consideration. The immigrant provisions of the PRWORA are extremely complex and require careful analysis to determine the impact of the provisions on numerous programs and services. We are currently analyzing these provisions and will provide further information to you as these issues are resolved.

If further clarification is needed, please contact: Daniel Lewis at (202) 205-8618, e-mail: dlewis@acf.dhhs.gov.

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Deputy Commissioner
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